

**Town of Berryville
Rehabilitation of McNeil Drive Temporary Cul-de-sac**

IFB Schedule

February 2, 2018	IFB issued
February 8, 2018	Pre-bid conference, 10:00 am at 101 Chalmers Court
February 13, 2018	Written questions due to be submitted to Town by 12:00 noon
February 16, 2018	Replies to written questions will be issued by EOB
February 27, 2018	Bids due at 3:00 pm in Town Business Office
February 27, 2018	Bid opening at 3:05 pm at 101 Chalmers Court
March 5, 2018	Notice of Award (expected on or by this date)
April 4, 2018	Work to be completed

INSTRUCTIONS TO BIDDERS
TOWN OF BERRYVILLE
REHABILITATION OF McNEIL DRIVE TEMPORARY CUL-DE-SAC

1. **DEFINED TERMS**

Terms used in these Instructions to Bidders have the following meanings assigned to them. The term "Bidder" means one that submits a bid directly to the Town, as distinct from a sub-bidder, who submits a bid to a Bidder. The term "Successful Bidder" means the lowest, qualified, responsible and responsive bidder to whom the Town (based on the Town's evaluation as hereinafter provided) makes an award. The term "Bidding Documents" includes the advertisement or invitation to bid, Instructions to Bidders, the Bid Form, and the Proposed Contract Documents (including all Addenda issued before receipt of bids.)

- 1.1 Whenever the word "Town" is used, it will mean the Town of Berryville, Virginia.
- 1.2 Whenever the word "Public Works Director" is used, it will mean the Director of Public Works for the Town of Berryville or designee.

2. **BIDS**

The following provisions and conditions in filling out the bid form shall govern bidders.

- 2.1 Bids shall be made on the bid form with all items completed.
- 2.2 A bid that is qualified by the bidder by the attachment of unsolicited terms or conditions under which the bid is to be considered may be subject to rejection.
- 2.3 Total bid amounts are to be indicated on the bid form, based on the quantities indicated and the unit prices bid. The quantities shown on the bid form are approximations and are for comparing bids.
- 2.4 Each bid must be accompanied by a bid bond in the form of a cashier's check or checks payable to the Town of Berryville, Virginia in an amount of at least five percent of the total bid, or a bid bond in like amount, as a guarantee that if the Bid is accepted, the Bidder will execute a Contract Agreement for the work and furnish a construction performance bond in the full amount of the bid and a construction payment bond of 100 percent of the total bid, within ten (10) consecutive calendar days following receipt of the Notice of Award.
- 2.5 Before submitting a bid, the bidder shall carefully examine the Specifications and other Contract Documents, visit the site of the work and fully inform himself by such means as he may think necessary or desirable as to all existing conditions and limitations.
- 2.6 Each bidder shall include in the prices in his bid, the cost of all work and materials necessary to complete the project indicated in the Contract Documents, performed in full compliance with the specification requirements.

2.7 Each bid must be submitted in a sealed envelope marked "Rehabilitation of McNeil Drive Temporary Cul-de-sac" and delivered to the Town of Berryville, Virginia at the Town's business office located in the Berryville-Clarke County Government Center, 101 Chalmers Court, Suite A, Berryville, Virginia 22611, on or before the hour and date set in the bid advertisement. The sealed envelope containing the bid shall be marked on the outside to show the bidder's name, address, the title of the bid and the time and date of opening. **There will be a public bid opening.**

2.8 Bids may not be withdrawn after the scheduled closing time for their receipt.

3. **INTERPRETATION OF DOCUMENTS**

It is the intent of the specifications and other Contract Documents that the Contractor furnishes all labor and materials, equipment and transportation necessary for the proper and complete execution of the work, unless specifically noted otherwise. Should a bidder find discrepancies in or omissions from the various documents, or should he be in doubt as to their explicit meanings, said bidder may submit to the Director of Public Works (townclerk@berryvilleva.gov) a written request for an interpretation thereof. The Director of Public Works shall not discuss or respond to any requests or inquiries that are not in writing. Said written requests or inquiries shall be received by the Director of Public Works no later than 12:00 noon February 13, 2018. Any addenda or interpretation of the bid and/or proposed contract documents will be posted on the Town's website and mailed to each prospective bidder who has requested bid documents or has asked to be included on the list of those to receive any additional bid information. The Town will not be responsible for any other explanations or interpretations of the bid and/or proposed contract documents. Replies will be issued by the Director of Public Works by end of business on February 16, 2018.

4. **QUALIFICATIONS OF BIDDERS**

- 4.1 Bids will not be accepted from, nor contracts awarded to, any person, firm or corporation that is in arrears to the Town, or that is not fully qualified or able to perform the work.
- 4.2 Each bidder must satisfy the Public Works Director and the Town as to the suitability and adequacy of his equipment and as to his practical ability to perform the work set forth in these Contract Documents within the specified time.
- 4.3 Bidders may be required to submit satisfactory evidence that they have the necessary financial resources to complete the proposed work.

5. **WITHDRAWAL OF BID**

Any bidder may withdraw his bid, either personally or by written request, at any time before the scheduled closing time for receipt of the bids.

6. **AWARD OR REJECTION OF BIDS**

The contract will be awarded to the lowest fully qualified responsible bidder complying with these instructions to bidders and with the advertisement. The Town reserves the right to reject any and all bids or to waive any informalities or technicality in bids received if it appears that the best interests of the Town may thereby be served.

7. **CONTRACT AGREEMENT**

The successful bidder shall execute the formal contract agreement and furnish a construction performance bond and a construction payment bond satisfactory to the Town within ten (10) business days, Saturdays, Sundays and holidays excluded, from and including the date of receipt of the Notice of Award. Failure to do so will be an adequate and just cause of annulment or cancellation of the award, and in such case, the bid bond or bid guarantee will become the property of the Town.

BID FORM/SPECIFICATIONS
TOWN OF BERRYVILLE
REHABILITATION OF McNEIL DRIVE TEMPORARY CUL-DE-SAC

The undersigned, having fully familiarized himself with the conditions affecting the cost of the work, the technical provisions and any supplementary conditions, the specifications and any addenda attached to the specifications, and having visited the site of the work, hereby proposes to perform everything required to be performed to provide all labor, material and equipment, necessary tools, expendable equipment and all utility and transportation services necessary to perform and complete in a workmanlike manner all of the work required for the purpose of completion of the Rehabilitation of McNeil Drive Temporary cul-de-sac in accordance with the Contract Documents.

Overview

A stone temporary cul-de-sac was constructed at the northern terminus of McNeil Drive in 1992. The cul-de-sac was constructed within the limits of a Temporary Turnaround Easement.

McNeil Drive has yet to be accepted into the Secondary Road System and access to the cul-de-sac from McNeil Drive was blocked at some point in the past. Since that time grass and weeds have covered the stone and several small trees become established along the edge of the cul-de-sac.

A portion of McNeil Drive will soon be added to the Secondary Road System. Accordingly, the temporary cul-de-sac must be rehabilitated before the street can be included in the system.

SPECIFICATIONS

The Town of Berryville is requesting bids for the rehabilitation of McNeil Drive Temporary cul-de-sac, Berryville, Va.

General Scope of Work

Contractor shall:

1. Maintain current Miss Utility locates for site for the duration of project in accordance with applicable law.
2. Identify the boundaries of the Temporary Turnaround Easement as established in a Deed of Dedication recorded at Deed Book 224 Page 305 through 327 in the land records of the Clerk of Circuit Court of Clarke County (Exhibit 1). Boundaries of the easement must be identified and staked on site by a Certified Land Surveyor licensed in the Commonwealth of Virginia. Boundary stakes must be in place before any other phase of the project may proceed and must remain in place until all work is completed and accepted by the Town. All construction activities must occur within the Temporary Turnaround Easement.

It is important to note that there is what appears to be a labeling error on the easement plat (Deed Book 224 Page 325). The length of the easement's northwestern boundary is labeled as 70.00 feet. Review of all of the easement boundaries reveals that the 70.00 foot label is erroneous.

3. Remove and dispose of vegetation, construction material, and other items blocking the entrance of the cul-de-sac from McNeil Drive. Contractor is responsible for disposal of removed material. All material removed from the site shall be disposed of in accordance with applicable law.
4. Remove at least 8" of material from the entire area identified on attached Exhibit 2. Contractor is responsible for disposal of removed material. All material removed from the site shall be disposed of in accordance with applicable law.

5. Compact area from which the material has been removed by means of a roller to a minimum of 95% density.
6. Install 21B stone in the excavated area and compact stone across entire area by means of a roller to a minimum of 95% density with the final surface to match topography as shown on Exhibit 3.
7. Stabilize any area that was disturbed and not covered in stone with grass seed and straw.

Scope Notes / Supplemental Requirements

1. Project related activities may not unreasonably or adversely affect activity on other properties fronting on McNeil Drive.
2. The successful bidder will perform the required work between the hours of 7am – 5pm Monday through Friday. Extended working hours may be available upon approval by the Town of Berryville.
3. Dirt, gravel, mud, or other materials may not be deposited on McNeil Drive or other streets. Contractor is responsible for immediately removing any such material if it is deposited on any street.
4. Removal of rock, which for as it relates to this project shall include all material requiring blasting, barring, or wedging from its original bed by means of a 310 SG John Deere backhoe (or machine of equal size) or larger machine, is not included in the bid. Bidders are required to submit a per cubic yard price for rock excavation. Prior to excavation or removal of rock, contractor shall secure approval from the Public Works Director to proceed with removal of rock. The Town reserves the right, at its sole discretion, to leave rock in place.
5. Compaction tests shall be performed by a certified third party inspector. Compaction test result reports shall be filed with the Town prior to acceptance of the work. Contractor is responsible for the cost of third party inspections.

Project must be complete and accepted by the Town of Berryville by April 4, 2018.

Lump Sum Bid Amount \$_____

Rock Removal

Rock removal cost per cubic yard \$_____

If awarded the contract, the undersigned hereby agrees to sign said contract and furnish the necessary materials and services required by the Contract Documents. The undersigned furthermore agrees, if awarded the contract, to begin and to complete and deliver the materials and services contemplated in the bid in accordance with the conditions as set forth in the Contract Documents. The undersigned agrees to obtain a Town Business License as required by the Town Code.

The undersigned has examined and is familiar with the specifications and all Contract Documents related thereto.

The undersigned has carefully reviewed all the above figures, and understands that the Town will not be responsible for any errors or omissions on the part of the undersigned in making the bid.

The undersigned hereby certifies that the bid is genuine, and neither is it false nor is it collusive, nor is it made in the interest of or on behalf of any person not herein named, and that the undersigned has not directly or indirectly induced or solicited any other bidder to put in a false bid, nor has he induced or solicited any other person, firm or corporation to refrain from bidding, and that the undersigned has not in any manner sought to secure for himself by collusion, an advantage over any other bidder.

Firm Name: _____ Address: _____

By: _____ Title: _____

Dated this _____ day of _____, 2018 Attest: _____

Exhibit 1

Returned 7/7/92 to;
E. Scott Smalley, Esq.

BOOK 224 PAGE 305

#92-1225
THIS DEED OF SUBDIVISION, DEDICATION, and DECLARATION made this 28th day of May, 1992, by KETOCTIN LAND COMPANY, hereinafter referred to as "Declarant", party of the first part; and TOWN OF BERRYVILLE, VIRGINIA, party of the second part; and THE COUNTY OF CLARKE, VIRGINIA, party of the third part; REAL TITLE COMPANY, INC, Sole Acting Trustee, hereinafter referred to as "Trustee", and FIRST AMERICAN BANK OF VIRGINIA, hereinafter referred to as "Lienholder".

WHEREAS, the Declarant is the owner of real property, containing 207.708 acres and more particularly described on plat of survey and description of George E. Foard, C.L.S., dated August 11, 1987 of record in the Clerk's Office of the Circuit Court of Clarke County, Virginia in Deed Book 180 at Pages 256 through 261 and desires to maintain and operate on a portion of said property a stormwater management area, storm sewer easements and related facilities all as shown on the final plat of subdivision for Battlefield Estates, Lots 251B, 251C, 251D and 251E prepared by C. J. Rinker, Jr., C.L.S., dated March 23, 1992 which shall service the abovedescribed lots and other properties owned by Declarant; and,

WHEREAS, in order for Declarant to maintain and operate thereon a stormwater management area and related facilities for the benefit of a portion of Declarant's property, the Declarant desires and agrees to subject the real property described in Article II hereof to the covenants, restrictions easements charges and liens, hereinafter set forth, each and all of which is and are for the benefit of a portion of Declarant's property and the subject owners thereof; and,

WHEREAS, the Declarant has deemed it desirable, for

the efficient maintenance and operation of the stormwater detention pond and related facilities, to create an association to which should be delegated and assigned the powers and duties of owning the lot on which the stormwater management area is located and maintaining the stormwater detention lot and related facilities, and storm sewer easements on the property, administering and enforcing the within covenants and restrictions and disbursing the charges and assessments hereinafter created; and

WHEREAS, the Declarant now desires to subdivide a portion of its property into lots to be known as Battlefield Estates, Lot 251B, Lot 251C, Lot 251D and Lot 251E, The subdivision of said real estate, as it now appears on the aforesaid attached plats, is with the free consent and in accordance with the desires of the undersigned Declarant, Trustee and Lienholder, and the parties hereto further desire to subdivide the aforesaid real estate in accordance with the provisions of the Berryville Area Subdivision Ordinance and of "The Virginia Land Subdivision Act" as are applicable and in force and effect as of the date of execution of this Deed of Dedication.

NOW, THEREFORE, THIS DEED OF SUBDIVISION, DEDICATION and DECLARATION, WITNESSETH: that for and in consideration of the premises and the benefits which will accrue by reason of this Subdivision, the Declarant does hereby subdivide all of that certain tract or parcel of land designated Battlefield Estates Lots 251B, 251C, 251D, and 251E, lying and being situate in Longmarsh Magisterial District, Clarke County,

Virginia, and being more particularly described by the aforesaid plat of C. J. Rinker, Jr., C.L.S., dated March 23 1992, attached hereto and made a part hereof and by this reference incorporated herein as it set out in full. This is a portion of the property conveyed to Ketocin Land Company by James A. Clevenger, by deed dated August 21, 1987 of record in the Clerk's Office of the Circuit Court of Clarke County, Virginia in Deed Book 180 at Page 253.

Further, the Declarant hereby dedicates as a public right of way and easement to the Town of Berryville, Virginia for the benefit of the public, all water, sanitary sewer, storm-sewer and other easements shown on the attached plat dated March 23, 1992 and dedicates and transfers in fee simple to the County of Clarke County, Virginia the land shown on said plat set apart for public streets. This dedication of the easements and streets shown on said plat shall be for the benefit of the public, including the 207.708 acres conveyed to Declarant by deed dated August 21, 1987 from James A. Clevenger of record in the aforesaid Clerk's Office in Deed Book 180 at Page 253.

FURTHER, the Declarant hereby declares that the real property described in Article II hereof is and shall be held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied and improved subject to the covenants, restrictions, easements, charges and liens (hereinafter sometimes referred to as "the covenants and restrictions") hereinafter set forth:

ARTICLE I

Section 1 Definitions The following words when used in this Declaration shall have the following meanings:

(a) "Association" shall mean and refer to the Battlefield Estates Business Commercial Stormwater Management Association, an Unincorporated Association, and its successors and assigns.

(b) "Declarant" shall mean Ketocin Land Company.

(c) "The Property" shall mean and refer to all

real property described in Article II hereof and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

(d) "Lot" shall mean and refer to any of the lots designated upon a plat of subdivision of the said 207.708 acres owned by Declarant, with the exception of the stormwater lot or other areas dedicated for public use.

(e) "Stormwater detention pond or lot and related facilities" shall mean and refer to the stormwater management area or lot, containing 2.593 acres and related detention facilities and the 20 foot storm sewer easements: (1) shown on the approved final plat of subdivision, plans and specification for Battlefield Estates, resubdivided Lots 251B, 251C, 251D, and 251E; (2) as shown on any future subdivision of said Lot 251B lying within The Property (i.e. the property described in Article II); and (3) as shown on the final plat, plans and specifications for Sections 1a and 1b of Battlefield Estates (lots 31 - 69) said lots in Section 1A and 1B being shown on the attached cover sheet of Battlefield Estates dated November 30, 1989, all for the benefit, use and enjoyment of the Declarant, their heirs, personal representatives, successors and assigns.

(f) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated on The Property, including contract sellers, but excluding those having such interest solely as security for the performance of an obligation.

(g) "Member" shall mean and refer to every person, group of persons or entity who owns a lot on The Property. Each lot shall be represented by a Member or Members.

ARTICLE II

Section 1 Property Subject to Declaration ("The

Property" The real property which is, and shall be, held, conveyed, hypothecated or encumbered, sold, leased, rented, used, occupied, and improved subject to this Declaration is located in the County of Clarke, Commonwealth of Virginia, and is that portion of sub-area 7, containing 15 acres, more or less, as described in the Berryville Area Plan adopted April 21, 1992 by the Town and County. This 15 acres is owned by Declarant and is to be zoned Business Commercial under said Berryville Area Plan and is further described on Exhibit "A" attached hereto.

ARTICLE III

Section 1 Membership

(a) Every person, group or persons or entity who is a record owner of a fee interest, including Contract Sellers, in any Lot on The Property shall be a member of the Association, provided, however, that any such person, group of persons or entity who holds such interest solely as security for the performance of an obligation shall not be a member.

ARTICLE IV

Section 1 Annual Meeting The first annual meeting

of the members shall be held as set by the Declarant or upon written request of members with 25 votes. Each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 2:00 P.M. If the day for the annual meeting of the members is a

legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2 Special Meetings Special Meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of members with 25 votes. The Notice of a special meeting shall state the purpose of that meeting and no other business except as stated in the notice shall be conducted at such special meeting.

Section 3 Proxies Each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease after one year.

Section 4 Quorum

At any meeting when an assessment (annual or special) is established or assessed, the presence at the meeting of members or of proxies entitled to cast sixty-seven percent (67%) of all votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting or successive meetings may be called, subject to the notice requirement as set forth herein and, the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. The quorum for other meetings where an assessment is not established or assessed shall be as set forth in the By-laws of the Association.

Section 5 - No meeting shall be called unless on written notice to all members at least fifteen (15) days prior

to said meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting. The quorum for other meetings where an assessment is not established or assessed shall be as set forth in the By-laws of the Association.

ARTICLE V

Voting Rights

(A) When more than one person or entity holds an interest in any Lot, all such persons shall be members. The votes for such Lot shall be exercised as they among themselves determine, but in any event the votes allocated to each lot shall be voted as one block.

(B) The total votes shall be 100. Each lot shall be allocated the number of votes or shares that the agreed allocation of maintenance costs for that lot (that lot's maintenance assessment) bears to the total maintenance costs (the total maintenance assessments). For example and by illustration, if a lot has agreed to pay ten (10%) per centum of the total costs of stormwater maintenance, that lot has 10 votes. If that lot has agreed to pay twenty (20%) per centum of the total costs that lot has 20 votes. Fractional percentages shall be rounded so that there shall always be 100 votes or shares to pay 100% of the maintenance costs.

ARTICLE VI - Board of Directors

Section 1. Term. The affairs of the Association shall be managed by a Board of not less than three (3), but no more than nine (9) directors, who must be members of the Association. The initial Board of Directors shall be appointed by the

-1-

Association and serve until the annual meeting following conveyance of the first Lot of the Property; thereafter, the Board of Directors shall be elected by the membership as determined in the By-laws of the Association.

ARTICLE VII

Section 1 Title to Assets Upon Dissolution In the event of dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which the Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to the then owners of each lot on an equal basis and which ownership shall be devoted to such similar purposes as stated herein.

Section 2 Subject to Stormwater Detention Agreement and Virginia Property Owner's Association Act

This deed of dedication shall be subject to the provisions of a stormwater maintenance agreement dated May 1992 between Ketocin Land Company ("Developer") and the Town of Berryville, Virginia ("Town") which said agreement by this reference is incorporated herein as if set out in full and is of record immediately following this instrument in the Clerk's Office of the Circuit Court of Clarke County, Virginia in Deed Book ____ at Page _____. This deed of dedication shall be subject to all of the provisions of the Virginia Property Owner's Association, Section 55-508, et. seq., Code of Virginia, 1950, as amended.

ARTICLE VIII

Section 1. 20 Foot Storm Sewer Easement. The Storm-water Lot, containing 2.593 acres, herein dedicated to the Town of Berryville has as appurtenant to it easements or rights of way designated 20 foot storm sewer easements shown on the plat of Battlefield Estates Subdivision, Lots 251B, 251C, 251D, and 251E prepared by C. J. Rinker, Jr., C.L.S., dated March 23, 1992 and attached hereto and incorporated herein for the purpose of surface water drainage easement. No structures of any kind which substantially impedes or obstructs the flow or ponding of surface drainage water may be placed within said stormwater lot or storm sewer easements designated on the aforesaid plat. Said storm water lot or storm sewer or easements may not be altered or modified without the prior consent of the Town of Berryville and the Declarant does hereby grant and convey unto the Town of Berryville a perpetual right of way or easement over the aforesaid designated 20 foot storm sewer easement and the stormwater lot for the purpose of so providing surface drainage.

ARTICLE VIX

Section 1. Covenants for Maintenance Assessments.

The Declarant for each Lot owned by it on The Property (and as hereinafter limited by the Provisions of this Declaration) and each person, group or persons or entity who becomes a owner of a Lot on The Property by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree

to pay to the Association: (1) annual assessments or charges for the maintenance and operation of the stormwater lot and related detention facilities; and (2) special assessments for improvements or repairs to the stormwater lot and related detention facilities, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof as hereinafter provided, shall be a charge on the land if in default and shall thereafter be a continuing lien upon the property and Lot against which such assessment is made as hereinafter provided until paid in full. Each such assessment, together with interest thereon at legal rate and costs of collection thereof including reasonable attorney's fees, shall also be the personal obligation of any owner of property subject to this Declaration at the time when the assessment fell due.

Section 2. Purpose of Assessment The assessment levied by the Association shall be used exclusively for the purpose of paying charges incidental to maintaining, and managing the stormwater lot and related detention facilities. The assessments allocated for each lot shall be a percentage of the total assessments corresponding to the percentage of votes for that Lot (see Article V B) and as that lot has agreed to pay.

Section 3. Annual Assessments Assessments shall be billed on a monthly, quarterly, semi-annual or annual basis.

Section 4. Special Assessments In addition to the

assessments authorized by this Article, the Association may levy in any assessment year a special assessment, applicable to that year only, for the purpose of defraying, in whole or in part, the costs of any construction or reconstruction, unexpected repair or replacement of the stormwater detention pond or related facilities. Such assessment requires a majority vote of the members of the Association.

Section 5. Commencing of Annual Assessments The annual assessment for each member shall be established and commenced as set by the members of the Association at the first annual meeting as set forth in Section 1 of Article IV.

ARTICLE X

Section 1. Non-payment of Assessment. Any assessment levied pursuant to these covenants which is not paid on the date when due shall be delinquent and shall, together with such interest thereon and cost of collection thereof, as herein provided, become a continuing lien upon the property which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner of the Lot to pay such assessment, however, shall also remain his personal obligation for the statutory period.

If the assessment is not paid within thirty (30) days after the delinquency date, the assessment shall bear interest at the legal rate per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same (costs and reasonable attorney's fees shall be added to the amount of each assessment). No owner may waive or otherwise

escape liability for the assessments herein provided for by non-use or abandonment of his Lot or Dwelling.

Section 2 Subordination Provision The lien of the assessments provided for in this Declaration shall be subordinate to the lien of any deed of trust or deed of trusts now or hereafter placed upon the lot subject to assessment, provided, however, that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such Lot pursuant to a foreclosure of the deed of trust, or any other proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment.

ARTICLE XI

Section 1 Duration The covenants and restrictions of this Declaration shall run with the land, and shall be binding upon and inure to the benefit of and be enforceable by the Association, or the owner of any land subject to this Declaration, the Members, their respective legal representatives, heirs, successors, and assigns, for a term of twenty (20) years from the date of recordation of this Declaration, after which the said covenants shall be automatically extended for successive periods of ten (10) years each, unless an instrument signed by the then Owners of sixty-six percent (66%) of the Lots has been recorded, agreeing to change said covenants and restrictions in whole or in part.

Section 2. Notices Any notice required to be sent to

any member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, by ordinary mail, postpaid, to the last known address of the person who appears as member of Owner on the records of the Association at the time of such mailing.

Section 3. Enforcement These covenants and restrictions may be enforced by the Association or any Owner in any manner permitted by the law of the Commonwealth of Virginia.

Section 4. Severability Invalidation of any one of these covenants or restrictions by judgment, decree or order shall in no way affect any other provision hereof, each of which shall remain in full force and effect.

The Town of Berryville by its signature hereto, and accepts agrees to the dedication of the water, sanitary sewer and storm-sewer easements and the stormwater management area easement all as shown on the attached plat of C. J. Rinker, C.L.S., dated March 23, 1992 and agrees to the other provisions of the declaration creating the Association to maintain the stormwater management area and detention facilities.

The County of Clarke, by its signature hereto, agrees to the dedication to the Town of Berryville of the public easements described herein and as shown on the attached plat of subdivision of C.J. Rinker, Jr, C.L.S., dated March 23, 1992 and accepts the dedication of the public streets as shown on said attached plat dated March 23, 1992 and agrees that the dedication and acceptance of public streets is subject to the reservation of

a 20 foot water line easement, a 20 foot sanitary sewer easement and/or a 20 foot storm sewer easement for the water, sewer, and stormsewer lines, facilities and appurtenances to be built in and upon said public streets, all as more particularly shown on the approved plat, plans and specifications for Battlefield Estates Subdivision.

Lienholder, as beneficiary under the following referenced deeds of trust and Trustee, as Trustee under said deeds of trust join in this deed of dedication to agree to the provisions hereof; said deed of trusts are dated August 21, 1987 and June 1, 1991, respectively, and of record in the aforesaid Clerk's Office in Deed Book 180 at Page 262 and Deed Book 215 at Page 17, respectively

IN WITNESS WHEREOF, the said Declarant has on the 28th day of May, 1992, caused these presents to be executed by all the Owners of the Lots on the Property subject to this Declaration

KETOCTIN LAND COMPANY
Declarant and Sole Property Owner

BY

A. C. Echols, Jr.
A. C. ECHOLS, JR., PRESIDENT

TOWN OF BERRYVILLE

BY

R. John Hogan

COUNTY OF CLARKE

BY

Charles Volant
PLANNING ADMINISTRATOR
REAL ESTATE TITLE COMPANY, Inc., Trustee

BY

Walter A. Wilson, Jr.
WALTER A. WILSON, JR.
VP and Associate Counsel
-14-

Deed of Subdivision, Dedication and Declaration dated May 28, 1992

FIRST AMERICAN BANK OF VIRGINIA

BY

Don D. Barnett

STATE OF VIRGINIA; AT LARGE

City/County of Clarke

, to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction, this 1st day of July, 1992 by A. C. ECHOLS, JR., PRESIDENT OF METOCTIN LAND COMPANY, on behalf of said Corporation

My commission expires Dec. 31, 1995

Andrea J. Williams
NOTARY PUBLIC

STATE OF VIRGINIA; AT LARGE

City/County of Clarke

, to-wit:

The foregoing instrument was acknowledged before me, in the aforesaid jurisdiction, this 1st day of July, 1992 by R. John Heaton, Mayor of the Town of Berryville on behalf of the Town of Berryville

My commission expires Dec. 31, 1995

Andrea J. Williams
NOTARY PUBLIC

STATE OF VIRGINIA; AT LARGE

City/County of Clarke

, to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction, this 28th day of May, 1992 by Charles S. Thornton, Chairman of the County of Clarke on behalf of the County of Clarke

My commission expires Dec. 31, 1995

Andrea J. Williams
NOTARY PUBLIC

STATE OF VIRGINIA; AT LARGE

City/County of FAIRFAX

, to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction, this 26th day of JUNE, 1992 by WALTER A. WILSON, JR., VP and Associate Counsel of the Real Estate Title Company, on behalf of said Corporation

My commission expires 3-21-93

James E. Over
NOTARY PUBLIC

STATE OF VIRGINIA; AT LARGE

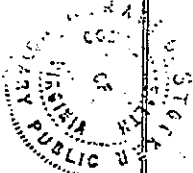
City/County of Fairfax

, to-wit:

The foregoing instrument was acknowledged before me in the aforesaid jurisdiction, this 12th day of January, 1992 by Don D. Barnett, Group Vice President of FIRST AMERICAN BANK OF VIRGINIA on behalf of said Corporation

My commission expires 4/30/96

Renate H. Stocker
NOTARY PUBLIC

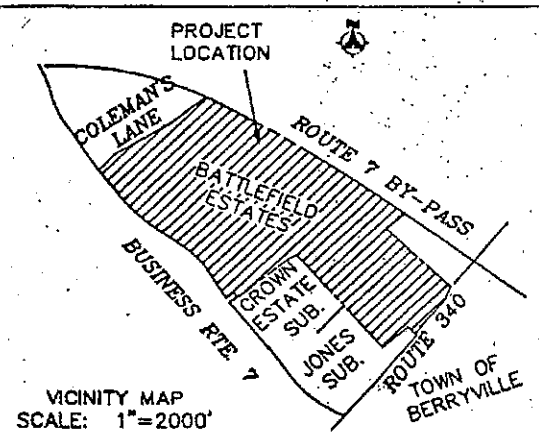
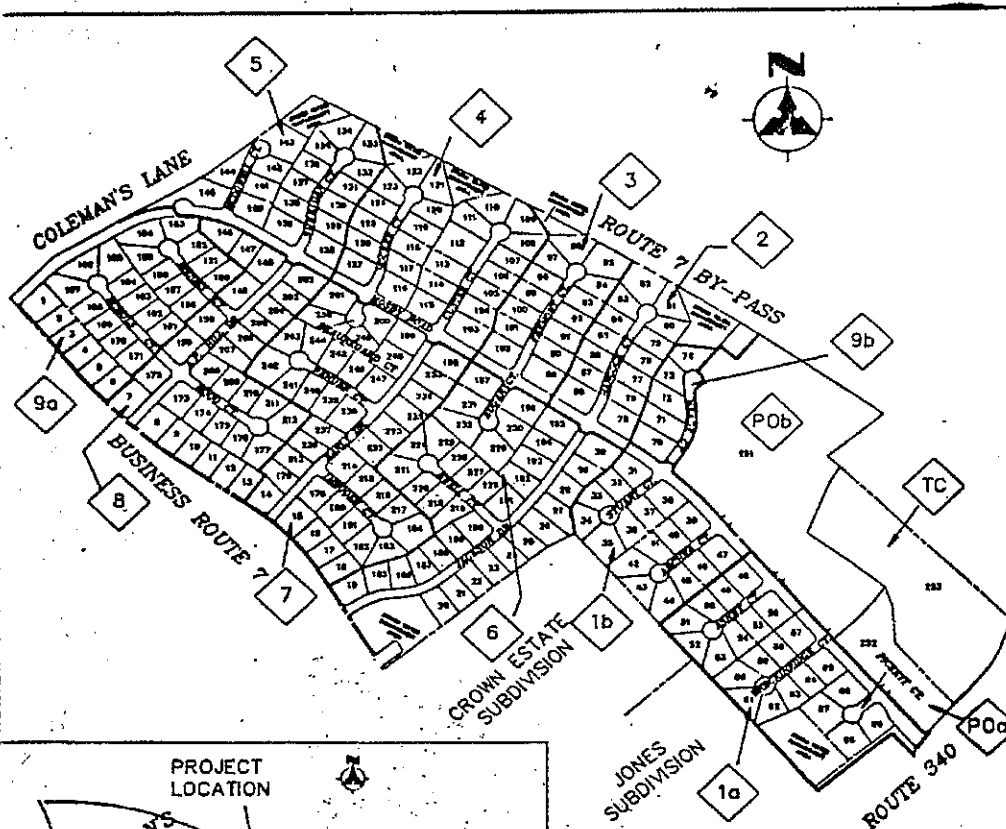


DEED OF DEDICATION

EXHIBIT "A"15 ACRE BUSINESS-COMMERCIAL
AREA DESCRIBED IN ARTICLE II

All of that certain parcel of land lying on the west side of Route 340 (public right of way), on the north side of Mosby Road (public right of way) and on the south side of the property of Harry W. Byrd, III, Trustee (now or formerly) recorded in Deed Book 138 at Page 12 of the Clerk's Office of the Circuit Court of Clarke County, Virginia, lying and being and situate in Longmarsh Magisterial District, Clarke County, Virginia, and described as follows:

Commencing at the intersection on the westerly margin of Route 340 (public right of way) and the northerly margin of Mosby Road (public right of way), as shown on that certain plat entitled "Final Plat Showing Lots 251B, 251C, 251D & 251E, Being a Resubdivision of Lot 251B, Battlefield Estates" prepared by Carl J. Rinker, Jr., C.L.S., Patton Harris Rust & Associates, P.C., dated March 23, 1992, and recorded in Deed Book _____ at Pages _____ through _____ of the Clerk's Office of the Circuit Court of Clarke County, Virginia ("Plat"), and thence continuing along the westerly margin of Route 340 S. 37-27-48 W. to a point, said point being located at the intersection of the westerly margin of Route 340 and an extension of the northerly margin of Mosby Road, which northerly margin runs N. 40-29-27 W., said point being the Point and Place of Beginning; thence from said Beginning Point along the northerly margin of Mosby Road N. 40-29-27 W. 1000 ft. to a point; thence leaving the northerly margin of Mosby Road in a new division line running in a northeasterly direction at a right angle to said northerly margin of Mosby Road until this new division line intersects with the northerly boundary of Lot 251B (as shown on said Plat) and the southerly margin of the property of Harry F. Byrd, III, trustee (now or formerly) recorded in Deed Book 138 at Page 12 of the Clerk's Office of the Circuit Court of Clarke County, Virginia; thence continuing along the boundary of said Byrd property and said Lot 251B S. 45-51-16 E. to an iron pipe found in the westerly margin of Route 340; thence along the westerly margin of Route 340 S. 19-56-25 W. 149.02 ft. to a concrete monument; thence S. 28-43-09 W. 98.24 to a concrete monument; thence S. 38-10-32 W. 210.45 ft. to an iron rod set, said point being at the intersection of the northeasterly corner of Lot 251D and the southeasterly corner of Lot 251E, as shown on said Plat; thence continuing S. 38-10-32 W. 13.33 ft. to a point; thence along the arc of a circular curve to the left, having a radius of 2,914.79 ft. and a chord bearing of S. 41-15-31 W., 281.91 ft. to an iron rod set; thence S. 37-27-48 W. along the westerly margin of Route 340 to the Point and Place of Beginning.



INDEX	
PAGE	DESCRIPTION
1	KEY SHEET
2-3	NOTES
4	BOUNDARY DESCRIPTION
5	CURVE TABLE
6-7	LOTS
8	OFFSITE ESMT.

BATTLEFIELD ESTATES

PHASE 1a

LONG MARSH DISTRICT
CLARKE COUNTY, VIRGINIA

NOVEMBER 30, 1989

PHR&A

Patton Harris Rust & Associates, PC
Engineers, Surveyors, Planners, Landscape Architects



Offices:
Fairfax, Va.
Bridgewater, Va.
Leesburg, Va.
Rockville, Md.

Virginia Beach, Va.
Chantilly, Va.
Winchester, Va.

PAGE 1 OF 8

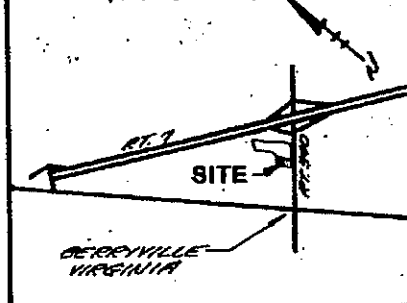
4956-10

- ⊙= DENOTES IRON PIPE FOUND
- ⊗= DENOTES IRON ROD FOUND
- ⊖= DENOTES IRON ROD SET
- = DENOTES CONCRETE MONUMENT FOUND

(BC)BRL= FRONT 40'
SIDE 25'
REAR 25'

LOTS 251C, 251D, 251E ARE CURRENTLY
ZONED 'BC' BUSINESS COMMERCIAL IN
THEIR ENTIRETY, SEE SHEETS 4 THRU
7 FOR ZONING DESIGNATION OF LOT 251B.

VICINITY MAP (NO SCALE)



NOTES:

1. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAP NO. 14 PARCELS 251A & 253 AND IS NOW IN THE NAME OF KETOCTIN LAND CO., A VIRGINIA CORP. AS RECORDED IN DEED BOOK 180 AT PAGE 253 AMONG THE LAND RECORDS OF CLARKE COUNTY, VIRGINIA.
2. THIS PLAT HAS BEEN PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE, THIS PLAT MAY NOT NECESSARILY INDICATE ALL ENCUMBRANCES ON THE PROPERTY.
3. THE EXISTENCE OF VEGETATED OR TIDAL WETLANDS WAS NEITHER INVESTIGATED NOR CONFIRMED DURING THE PERFORMANCE OF THIS SURVEY.
4. THE PROPERTY DELINEATED ON THIS PLAT IS NOW ZONED "PO", PROFESSIONAL OFFICE AND "TC" TOURIST COMMERCIAL, AND "BC" BUSINESS COMMERCIAL, AND ITS USE IS NOW VACANT. PROPOSED USE COMMERCIAL AND RETAIL OCCUPANCY.
5. THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED IN ZONE "C", AREA OUTSIDE 100 YEAR FLOOD AS SHOWN ON THE FEDERAL INSURANCE ADMINISTRATIONS FLOOD INSURANCE MAP NO. 01-13 CLARKE COUNTY, VIRGINIA COMMUNITY NO. 510036A SHEET 02.
6. THE PROPERTY DELINEATED ON THIS PLAT IS IN "AREA B", AREA TO BE ANNEXED BY THE TOWN OF BERRYVILLE, VIRGINIA.

LOT-251B = 30.695 AC.
LOT-251C = 4.137 AC.
LOT-251D = 1.500 AC.
LOT-251E = 0.689 AC.
STREET
DEDICATION= 0.386 AC.

TOTAL = 37.407 AC.
ORIGINAL = 37.407 AC.



May 27, 1992

FINAL PLAT
SHOWING
LOTS 251B, 251C, 251D, & 251E
BEING A RESUBDIVISION OF
LOT 251B
BATTLEFIELD ESTATES
LONG MARSH MAGISTERIAL DISTRICT
CLARKE COUNTY, VIRGINIA
1"=100' MARCH 23, 1992
PHR&A
107 NORTH KENT STREET
WINCHESTER, VIRGINIA
(703)-722-4721

THE RESUBDIVISION OF THE LAND DESCRIBED HEREIN IS WITH THE FREE CONSENT AND IN ACCORDANCE WITH THE DESIRES OF THE UNDERSIGNED OWNERS, PROPRIETORS AND TRUSTEES. IF ANY. ALL STATEMENTS AFFIXED TO THIS PLAT ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND SHALL BE SIGNED AND DULY ACKNOWLEDGED BEFORE AN OFFICER AUTHORIZED TO TAKE ACKNOWLEDGMENT OF DEEDS.

[Signature] 5/28/92
KETOCTIN LAND CO. DATE

I HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE THAT THE PROPERTY SHOWN ON THIS PLAT IS NOW IN THE NAME OF KETOCTIN LAND CO., A VIRGINIA CORPORATION AS AQUIRED FROM JAMES A. CLEVINGER AS RECORDED IN DEED BOOK 180 AT PAGE 253 AMONG THE LAND RECORDS OF CLARKE COUNTY, VIRGINIA.

Carl J. Rinker Jr. 05/27/92
CARL J. RINKER JR. C.L.S. DATE

Robert C. Edmunds Chairman 5/28/92
BERRYVILLE AREA DEVELOPMENT AUTHORITY (BADA) DATE

Henry F. Payne 5-27-92
TOWN OF BERRYVILLE DATE
ZONING- BOMMSUBOTUR

SIGNED AND SEALED BEFORE ME THIS 29th DAY OF May, 1992 AT BERRYVILLE, CLARKE COUNTY, STATE OF VIRGINIA by A.C. Echols, Jr. President
Orchard Williams
NOTARY PUBLIC

MY COMMISSION EXPIRES: Dec 31, 1995



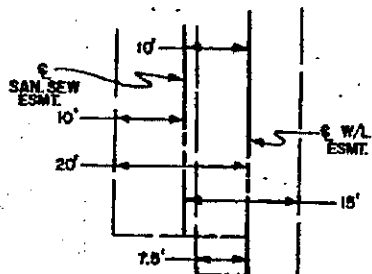
May 27, 1992

FINAL PLAT
SHOWING
LOTS 251B, 251C, 251D, & 251E
BEING A RESUBDIVISION OF
LOT 251B
BATTLEFIELD ESTATES
LONG MARSH MAGISTERIAL DISTRICT
CLARKE COUNTY, VIRGINIA
1"=100' MARCH 23, 1992

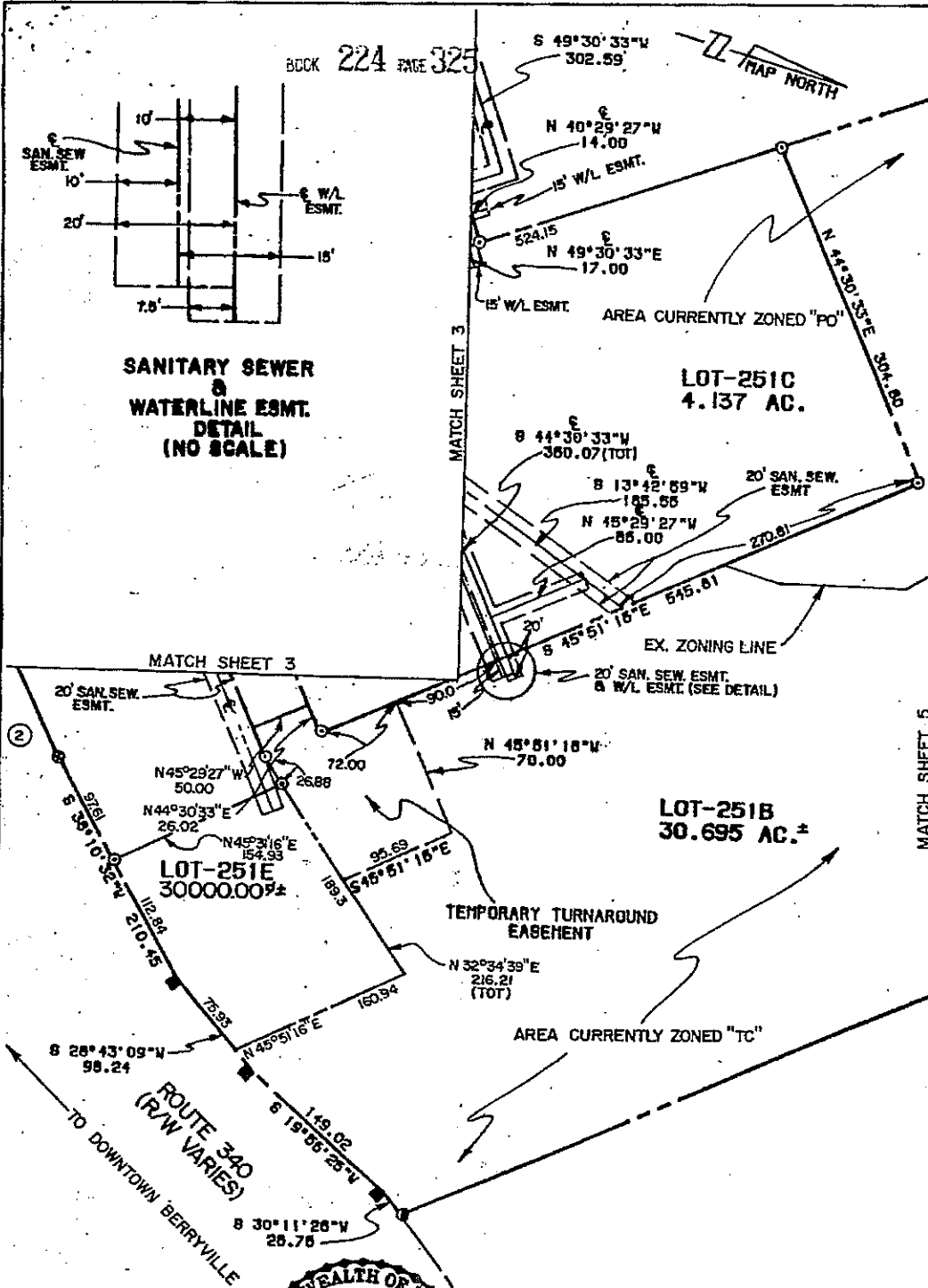
PHR&A

107 NORTH KENT STREET
WINCHESTER, VIRGINIA
(703)-722-4721

BOOK 224 PAGE 325



**SANITARY SEWER
&
WATERLINE ESMT.
DETAIL
(NO SCALE)**



May 27, 1992

FINAL PLAT
SHOWING
LOTS 251B, 251C, 251D, & 251E
BEING A RESUBDIVISION OF
LOT 251B
BATTLEFIELD ESTATES
LONG MARSH MAGISTERIAL DISTRICT
CLARKE COUNTY, VIRGINIA
1"=100' MARCH 23, 1992
PHR&A
107 NORTH KENT STREET
WINCHESTER, VIRGINIA
(703)-722-4721

KETOCTIN LAND CO.
180/253
ZONED: VR
USE: VACANT
TM 14

BOOK 224 PAGE 326

N 40° 29' 27" W 1513.62 (TOT)
663.81

AREA CURRENTLY ZONED "PO"

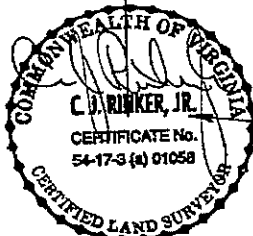
MAP NORTH

LOT-251B
30.695 AC.

EX. ZONING LINE

AREA CURRENTLY ZONED "TC"

S 45° 51' 15" E 1310.73



May 27, 1992

SHEET 5 OF 7

HARRY F. BYRD, III TR.
138/012
ZONED: AOC
USE: VACANT
TM 14

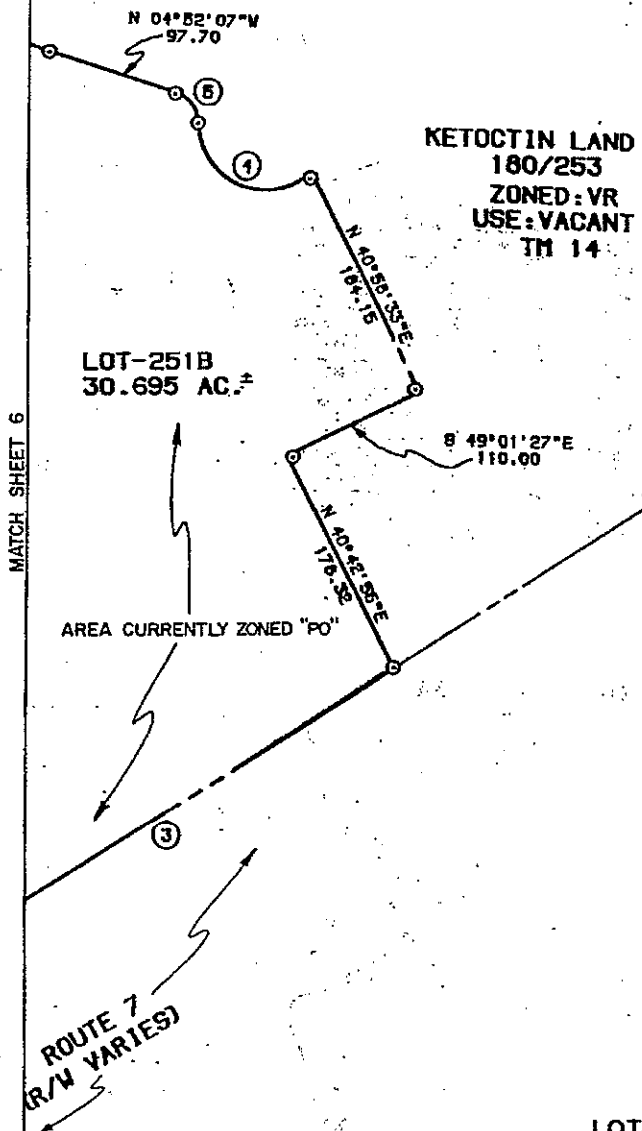
FINAL PLAT
SHOWING
LOTS 251B, 251C, 251D, & 251E
BEING A RESUBDIVISION OF
LOT 251B
BATTLEFIELD ESTATES
LONG MARSH MAGISTERIAL DISTRICT
CLARKE COUNTY, VIRGINIA
1"=100' MARCH 23, 1992

PHR&A
107 NORTH KENT STREET
WINCHESTER, VIRGINIA
(703)-722-4721

CURVE DATA

BOOK 214 PAGE 327

	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD DIST.
①	101°01'17"	28.00	44.08	30.34	S 88°59'54"W	38.89
②	008°32'29"	2914.79	281.91	141.06	S 41°18'31"W	281.80
③	001°03'28"	22880.31	420.97	210.49	S 58°18'54"E	420.96
④	131°48'18"	00.00	114.96	111.88	N 00°13'02"W	91.27
⑤	070°31'44"	28.00	30.77	17.84	N 30°23'45"E	28.87
⑥	036°21'38"	328.00	208.28	108.73	N 13°01'58"E	202.81
⑦	080°00'14"	28.00	34.91	20.98	N 07°49'58"W	32.14
⑧	007°20'38"	2392.13	308.89	183.80	N 44°09'48"W	308.38
⑨	089°38'53"	28.00	28.03	14.33	N 10°40'01"W	24.67
⑩	085°00'00"	21.75	32.27	19.85	N 02°00'33"E	29.39
⑪	095°00'00"	21.75	36.08	23.74	N 87°59'27"W	32.07



May 27, 1992

FINAL PLAT
SHOWING
LOTS 251B, 251C, 251D, & 251E
BEING A RESUBDIVISION OF
LOT 251B
BATTLEFIELD ESTATES
LONG MARSH MAGISTERIAL DISTRICT
CLARKE COUNTY, VIRGINIA
1"=100' MARCH 23, 1992
PHR&A
107 NORTH KENT STREET
WINCHESTER, VIRGINIA
(703) 722-4721

KETOCTIN LAND CO.
180/253
ZONED: VR
USE: VACANT
TM 14

BOOK 224 PAGE 328



LOT-251B
30.695 AC.±

AREA CURRENTLY ZONED "PO"

EX. ZONING LINE

AREA CURRENTLY ZONED "TC"



May 27, 1992

HARRY F. BYRD, III TR.
S 80°44'57"E 388.00
ZONED: VR
USE: VACANT
TM 14

Clark Co. SCT.
This instrument of writing was produced to me on the 31st day of May 1992 at 3:41 PM, and with certificate of acknowledgment thereto attached was admitted to record.

Teste:

Clerk

ROUTE 7
(R/W VARIES)

FINAL PLAT
SHOWING
LOTS 251B, 251C, 251D, & 251E
BEING A RESUBDIVISION OF
LOT 251B
BATTLEFIELD ESTATES
LONG MARSH MAGISTERIAL DISTRICT
CLARKE COUNTY, VIRGINIA
1"=100' MARCH 23, 1992

PHR&A

107 NORTH KENT STREET
WINCHESTER, VIRGINIA
703-722-4721

Exhibit 2

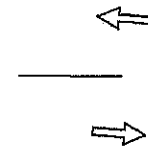
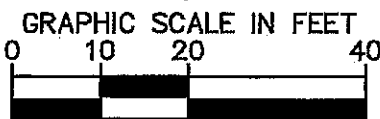
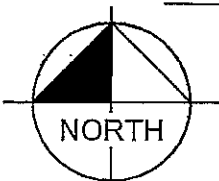
LOT 251-B
BATTLEFIELD ESTATES
D.B. 224 PG. 305

LANDS N/F
HOUSE OF LORDS INC.
D.B. 520 PG. 722
PIN: 14-5-251B

ZON

REMOVE AND DISPOSE OF EXISTING
TURNAROUND AREA

NOTE: EXISTING TURNAROUND ESMT ON LOT
251-B RECORDED IN D.B. 224 PG 366 AND
D.B. 224 PG 305



CONC. CURB W/2' GUTTER

Kimley»Horn

11400 COMMERCE PARK DR., SUITE 400, RESTON, VA 20191
PHONE: 703-674-1300 FAX: 703-674-1350
WWW.KIMLEY-HORN.COM

BERRYVILLE
PREPARED FOR
McDONALD'S

TOWN OF BERRYVILLE

VIRGINIA

EXHIBIT 2

KHA PROJECT 110368008
DATE 11/3/2017
SCALE AS SHOWN
DESIGNED BY
DRAWN BY JRB
CHECKED BY SMM

Exhibit 3

SCALE 1" = 20'

LANDS N/F
HOUSE OF LORDS INC
D.B. 529 PG. 202
PIN: 010-05-0000

LAN
HOUSE OF
D.B. 52
PIN: 1

ZONE: BC (BUS)

RESTORATION OF EXISTING TURNAROUND.
8" COMPACTED 21B.

4" WHITE @ 45° WITH
2' O.C. SPACING

EXISTING RIGHT-OF-WAY

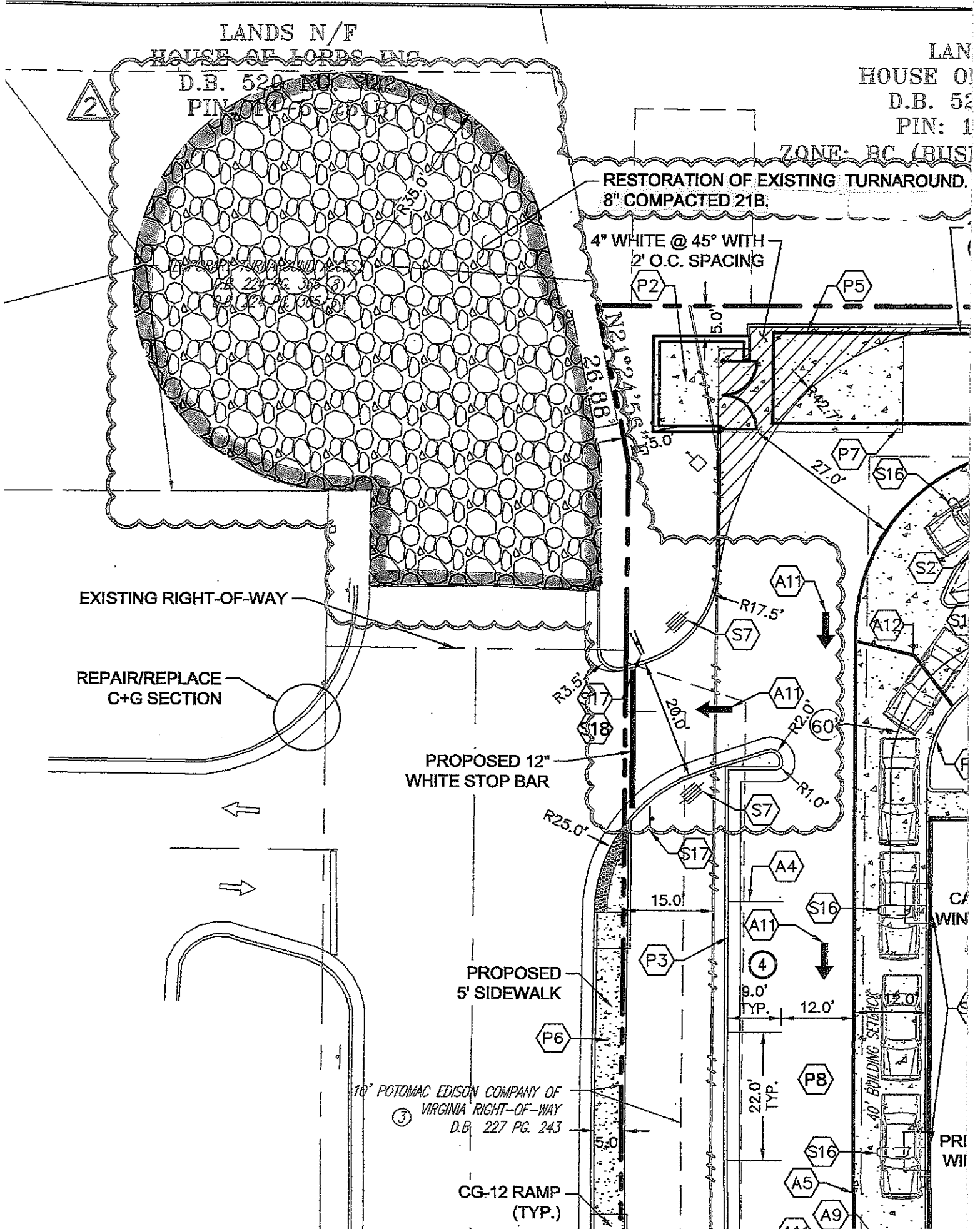
REPAIR/REPLACE
C+G SECTION

PROPOSED 12"
WHITE STOP BAR

PROPOSED
5' SIDEWALK

16" POTOMAC EDISON COMPANY OF
VIRGINIA RIGHT-OF-WAY
D.B. 227 PG. 243

CG-12 RAMP
(TYP.)



SCALE 1" = 20'

LANDS N/F
HOUSE OF LORDS INC.

D.B. 520 PG. 722

PIN. 14-5-251B

B

ZONE: I

